APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/470,116	12/22/99	CLAYCOMB	R DDX13

QM12/1108

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EXAMINER
NATNITHITHADHA, N

ART UNIT	PAPER NUMBER
3736	

DATE MAILED: 11/08/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

	Application No.	Applicant(s)
Office Action Summary	09/470,116	CLAYCOMB ET AL.
	Examiner	**Art Unit**	
	Navin Natnithithadha	3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE **3** MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 August 2001* .

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21* is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

   If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____ .

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
      application from the International Bureau (PCT Rule 17.2(a)).
   * See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

   a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)		4)☐ Interview Summary (PTO-413) Paper No(s). _____ .
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)		5)☐ Notice of Informal Patent Application (PTO-152)
3)☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .		6)☐ Other: .

DETAILED ACTION

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) The invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2.   Claims 1-21 are rejected under 35 U.S.C. 102(be) as being anticipated by Starzl et al, U.S. Patent No. 5,542,431.

In regards to claims 1, 11, 20, and 21, Starzl discloses a heat detection system and methodology for determining value related to the occurrence of estrus in a cow for the purpose of deciding when the cow should be inseminated. In one embodiment, "a combination of frequency and duration heat mount data, in which frequency refers to the number of mounts and duration refers to the time of the mount, is used". In another embodiment, "the heat cycle in the cow is determined using information additional to the frequency and duration of cow or heat mounts". In Starzl's system, he discloses: an electronic patch 46 which includes a transmitter module 30 for detecting and transmitting information relating to heat mount data (see col. 6, lines 20-28 and Figs. 1 and 2); and a computer module 42 for receiving and analyzing the heat mount data and any other data used in making determinations related to the occurrence of heat in a cow and determining whether estrus has occurred and the occurrence of peak estrus (see col. 6, line 57 to col. 7, line 3, and col. 20, line 54 to col. 21, line 59).

As to claims 2, 14, 18, and 19, Starzl discloses a pressure switch assembly 124, which includes if the duration of mounts meet a preset threshold of time and if a preset number of mounts occur within a predetermined period of time (see col. 11, lines 38-55, col. 12, line 66 to col. 13, line 12, and col. 20, line 54 to col. 21, line 59).

As to claim 3, Starzl discloses a computer module 42 (see Fig. 1).

As to claim 4, Starzl discloses battery unit 88 (see Fig. 2).

As to claim 5, Starzl discloses a pressure switch assembly 124 (see Fig. 2).

As to claims 6, 12, and 13, Starzl discloses determining whether estrus has occurred and the occurrence of peak estrus (see col. 6, line 66 to col. 7, line 1).

As to claims 7, 8, 16, and 17, Starzl discloses a computer screen displaying useful information based on the analyzed data (see col. 4, lines 39-42).

As to claim 9, Starzl discloses cover 50 and 52 (see col. 8, lines 20-29 and Fig. 2).

As to claim 10, Starzl does not disclose a reset means. However, it is inherent that Starzl's apparatus can be resetted to start over again.

Response to Arguments

3.   Claims 12-21 were added.

4.   Claims 1-11 were amended.

5.   Applicant's arguments with respect to claims 1-11 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Navin Natnithithadha whose telephone number is (703)

305-2445. The examiner can normally be reached on Monday-Friday, 9:00 am to 5:00

pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Kevin Shafer can be reached on (703) 308-308-2582. The fax phone

numbers for the organization where this application or proceeding is assigned are (703)

308-0758 for regular communications and (703) 308-0758 for After Final

communications.

Any inquiry of a general nature or relating to the status of this application or

proceeding should be directed to the receptionist whose telephone number is (703) 308-

2701.

Navin Natnithithadha
Patent Examiner
GAU 3736
November 5, 2001

ROBERT L. NASSER
PRIMARY EXAMINER